

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SAKATA RICE SNACKS AUSTRALIA PTY
LTD.

Opposer,

v.

SESMARK FOODS INC./TERRA HARVEST
FOODS INC.

Applicant.



07-08-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Opposition No. 124,245

Opposed Mark: SAKATA
Application Serial No. 78/032,358
Filed: October 25, 2000
Published: August 28, 2001

**RESPONSE TO REQUEST FOR CONFIRMATION OF STATUS AND REQUEST FOR
REMAND OF APPLICATION**

By order dated June 17, 2004, the Trademark Trial and Appeal Board ("TTAB") allowed the parties twenty days in which to inform the TTAB of the status of Civil Action No. C03-1240C.

On June 6, 2003, opposer, Sakata Rice Snacks Australia Pty Ltd. ("Sakata") filed its Notice of Appeal and Civil Action and commenced Civil Action No. C03-1240C in the Western District of Washington. On September 5, 2003, Sakata voluntarily dismissed the civil action and appeal.

Pursuant to TBMP Rule 1213, Sakata notifies the TTAB of the dismissal of the civil action. A copy of the Notice of Dismissal is attached as Exhibit A. Sakata requests that Application Serial No. 78/032,358 be remanded to the examining attorney for further action.

RESPONSE TO REQUEST FOR CONFIRMATION - 1

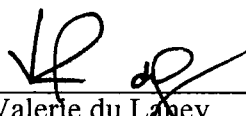
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ATTORNEYS AND COUNSELORS AT LAW
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RESPECTFULLY SUBMITTED this 7th day of July, 2004.



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Attorneys for Opposer Sakata Rice Snacks Australia Pty Ltd.

CERTIFICATE OF SERVICE

I, Angelie Rivera, hereby certify that these documents have been deposited with Federal Express on July 7, 2004 for hand-delivery by July 8, 2004 pursuant to 37 CFR § 2.119(b)(5) addressed to:

Trademark Trial & Appeal Board
U.S. Patent & Trademark Office
2900 Crystal Drive, Suite 9B40
Arlington, Virginia 22202-3514

and via U.S. Postal Service, first class mail, postage prepaid, to:

Ms. Nancy E. Sasamoto
Mr. George H. Kobayashi
Masuda Funai Eifert & Mitchell, Ltd.
Chicago Office
203 North LaSalle Street, Suite 2500
Chicago, Illinois 60601-1262



Angelie Rivera

EXHIBIT A

Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAKATA RICE SNACKS AUSTRALIA PTY
LTD., an Australian corporation,

Plaintiff/Appellant,

v.

TERRA HARVEST FOODS, INC., an Illinois
corporation,

Defendant/Appellee.


Civil No. C03-1240C

**NOTICE OF DISMISSAL
WITHOUT PREJUDICE**

Pursuant to Fed. R. Civ. P. 41(a)(1), the plaintiff Sakata Rice Snacks Australia Pty
Ltd., by and through its counsel, James L. Phillips and Valerie du Laney of the Law Office of
Miller Nash LLP, hereby requests that the matter be dismissed without prejudice.

DATED this 5th day of September, 2003.

MILLER NASH LLP


James L. Phillips
WSB No. 13186
Valerie du Laney
WSB No. 23315

Attorneys for Plaintiff
Sakata Rice Snacks Australia

1 I hereby certify that I served the foregoing NOTICE OF DISMISSAL WITHOUT PREJUDICE
2 on:

3 Louis Peterson
4 Timothy Benedict
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11 by the following indicated method or methods:


12 ☐ by causing personal delivery by Seattle Legal Messengers of the documents listed
13 above to the persons at the addresses set forth above.

14 ☒ by transmitting via facsimile the document(s) listed above to the fax number(s) set
15 forth above on this date before 5:00 p.m.

16 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
17 fully prepaid, in the United States mail at Seattle, Washington, addressed as set
18 forth above.

19 ☐ **FEDERAL:** I declare that I am employed in the office of a member of the Bar of
20 this Court at whose direction the service was made.

21 DATED this 5th day of September, 2003, in Seattle, Washington.

22 
23 _____
24 Michael S. Callahan
25 Assistant to Mr. Phillips
26

TTAB

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July 7, 2004

VIA FEDERAL EXPRESS

Trademark Trial & Appeal Board
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2900 Crystal Drive, Suite 9B40
Arlington, VA 22202-3514

Subject: *Sakata Rice Snacks Australia Pty Ltd. v. Terra Harvest Foods, Incorporated F/K/A Sesmark Foods Inc.*
Opposition No. 124,245
Our Reference: 202360-0001

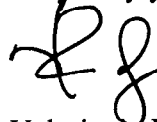
Dear Sir or Madam:

Enclosed for delivery by hand pursuant to 37 CFR 1.6 and for filing in this matter are the following:

1. Response to Request for Confirmation of Status and Request for Remand of Application; and
2. A postcard to acknowledge receipt of these documents.

Pursuant to 37 CFR § 2.119(a), these documents are also being served via U.S. Postal Service, first class mail, postage prepaid, on the attorney for the applicant, Terra Harvest Foods, Incorporated F/K/A Sesmark Foods Inc. All correspondence in this matter should be directed to the undersigned.

Very truly yours,



Valerie du Laney



07-08-2004

Trademark Trial & Appeal Board
July 7, 2004
Page 2

CERTIFICATE OF SERVICE

I, Angelie Rivera, hereby certify that these documents have been deposited with Federal Express on July 7, 2004 for hand-delivery by July 8, 2004 pursuant to 37 CFR § 2.119(b)(5) addressed to:

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Mr. George H. Kobayashi
Masuda Funai Eifert & Mitchell
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Angelie Rivera

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